IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.190 OF 2007
IN
CRIMINAL WRIT PETITION NO. 2657 OF 2006

M/s.Showman International .. Applicant
v/s.
The State of Maharashtra and another .. Respondents

Ms. Shital Sonawane for Ms. Vandana D. Jaisingh for the applicant.
Mr. Prasad Das i/by M/s. Goenka Law Associates for the respondent No.2.

CORAM : B.H. MARLAPALLE, J.
DATED : 8TH AUGUST, 2007

P.C.

Heard learned counsel for the applicant. The complaint filed by the respondent No.2 under section 138 of the Negotiable Instruments Act due to non-realisation of cheque dated 30.4.2003 in the sum of Rs.1,40,00,000/- given by the applicant. The cheque was drawn by the present applicant on UTI Bank Ltd., Lokhandwala Branch in favour of the complainant-respondent No.2. The cheque was presented for encashment by the respondent No.2 on the very same day in the IndusInd Bank Ltd. and as per the bank memo dated 6.5.2003, it returned with the remarks “Payment Stopped by the Drawer”.

2. The order of process issued against the petitioner was challenged in Criminal Revision Application No.155 of 2006 and the same has been dismissed by the learned Additional Sessions Judge on 7.11.2006. Hence this petition for quashing the proceedings in CC No.588/SS/2005 presently pending before the Metropolitan Magistrate Small Causes Court at Bombay..

3. The learned counsel for the applicant-petitioner referred to clause 3 of the tripartite agreement dated 30.10.2002 and submitted that the present petitioner-accused has no financial liability towards the complainant as the film produced was not released.

4. Whether the cheque drawn by the present petitioner in favour of the respondent No.2 was for legally enforceable financial liability is a matter which will have to be decided by the trial court on the basis of the evidence that the parties may adduce and there is no case made out to quash the proceedings at this stage. The complainant has made out a triable case as held by the learned Additional Sessions Judge.

5. Hence the petition is rejected. Ad-interim order stands vacated. Trial of CC No.588/SS/2005 is hereby expedited. Criminal application No.190 of 2007 does not survive.

(B.H. MARLAPALLE, J.)